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MARTIN & ASSOCIATES, LLC
P.O. BOX 548
CARTHAGE, MO 64836-0548

EXAMINER

HOANG, PHUONG N

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LEANDER BROMLEY JR. ,
CHRISTOPHER J. BROWN,
THUY PHUONG CHRISTENSON, PATRICK L. GLENSKI,
and KERSHAW S. MEHTA

Appeal 2016-000827
Application 13/627,379
Technology Center 2100

Before MICHAEL J. STRAUSS, KARA L. SZPONDOWSKI, and
DAVID J. CUTITTA II, *Administrative Patent Judges*.

STRAUSS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–7 and 15–22, which constitute all the claims pending in this application. Claims 8–14 are canceled. We have jurisdiction over the pending claims under 35 U.S.C. § 6(b).

This appeal is related to the co-pending appeal filed in connection with Serial No. 13/760,603, Appeal No. 2016-001457. App. Br. 1.

We affirm-in-part.

THE INVENTION

The claims are directed to dynamically building subsections of locale objects at run-time. Spec., Title.

CLAIMED SUBJECT MATTER

Claim 1, reproduced below, is representative of the claimed subject matter, with disputed limitations emphasized:

1. An apparatus comprising:
 - at least one processor;
 - a memory coupled to the at least one processor;
 - a plurality of locale source files residing in the memory;and
 - a dynamic locale object builder residing in the memory and executed by the at least one processor, the dynamic locale object builder receiving a request for a subsection of a requested locale object from a software application at run-time, identifying at least one of the plurality of locale source files corresponding to the requested locale object, *dynamically building the requested subsection of the requested locale object from the identified at least one locale source file without building all subsections of the requested locale object*, loading the requested subsection of the requested locale object into the memory, and returning to the software application a reference to the requested subsection of the requested locale object.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Rose et al. (“Rose”)	US 2005/0137846 A1	June 23, 2005
White et al. (“White”)	US 7,194,506 B1	Mar. 20, 2007
Bromley (“Bromley ’354”)	US Pat. Appln. No. 13/627,354 ¹	Filed Sept. 26, 2012
Bromley (“Bromley ’419”)	US Pat. Appln. No. 13/627,419 ²	Filed Sept. 26, 2012

REJECTIONS

The Examiner made the following rejections:

Claims 1, 15, and 22 stand provisionally rejected on the ground of non-statutory double patenting as being unpatentable over claims 2, 15, and 22 of co-pending Bromley ’354. Final Act. 4–12.

Claims 1, 15, and 22 stand provisionally rejected on the ground of non-statutory double patenting as being unpatentable over claims 2, 16, and 22 of co-pending Bromley ’419. Final Act. 12–21.

Claims 1–7 and 15–22 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rose and White. Final Act. 21–32.

APPELLANTS’ CONTENTIONS

1. The asserted claims of Bromley ’354 requiring “the software application references the plurality of subsections in the requested locale object *as needed*” fails to teach or suggest the disputed limitation of claim 1 of “dynamically building the requested subsection of the requested locale object . . . *without building all*

¹ Now US 9,141,352 issued Sept. 22, 2015.

² Now US 9,116,680 issued Aug. 25, 2015.

- subsections* of the requested locale object.” App. Br. 5 (emphasis added).
2. Rose discloses “building locale source files, not locale objects,” as required by the disputed limitation of claim 1. App. Br. 6.

ANALYSIS

Provisional Double Patenting Rejection over Bromley ’354

Appellants argue “[n]owhere does the cited patent application teach or suggest dynamically building the requested subsection of the requested locale object from the identified at least one locale source file without building all subsections of the requested locale object as claimed.” App. Br. 5. The Examiner responds by finding, although not explicitly disclosed, claim 1 of Bromley ’354 recites “the software application references the plurality of subsections in the requested locale object as needed” (the “as needed” limitation). Ans. 3. The Examiner further finds the “as needed” limitation “clearly includes the situation of ‘the software application’ requests needed subsections from the locale object, (i.e., not all subsections of the local object is requested but needed ones and thus, without building all subsections of the requested locale object).” *Id.* Appellants reply by arguing the claim language cited by the Examiner appears in claim 3, not claim 1, of Bromley ’354. Reply Br. 3. Appellants further argue the applicable claim language specifically requires the requested locale object include all of the subsections present in the parent locale source files, the “as needed” language specifying which of the subsection are invoked, not which are present. Reply Br. 3–4. Therefore, according to Appellants, rather than disclosing the omission of subsections as required by claim 1 of the instant

application, the claims of Bromley '354 require all of the subsections be included in the requested locale object. *Id.*

We initially note, although Appellants correctly argue the cited “as needed” limitation appears in claim 3 and not claim 1 at the time of the Final Action, this limitation was later incorporated into claim 1 of the '354 application at the time of the Examiner's Answer.³ Substantively, we agree with Appellants. Claim 1 of Bromley '354 and the corresponding issued patent require all subsections be included in the resulting requested locale objects, and therefore do not teach or suggest the disputed limitation of “building the requested subsection of the requested locale object from the identified at least one locale source file *without building all subsections of the requested locale object*,” as claimed (emphasis added). Accordingly, we do not sustain the provisional rejection of claims 1, 15, and 22 on the ground of non-statutory double patenting over claims 2, 15, and 22 of Bromley '354.

Provisional Double Patenting Rejection over Bromley '419

Because Appellants do not contest the provisional obviousness-type double patenting rejection of claims 1, 15, and 22 over claims 2, 16, and 22 of Bromley '419 (*see* Final Act. 12; App. Br. 5), we summarily sustain the rejection.

Rejection under 35 U.S.C. §103(a)

In connection with contention 2, we have reviewed the Examiner's rejections in light of Appellants' arguments the Examiner has erred in rejecting independent claims 1, 15, and 22 under 35 U.S.C. § 103(a) as being

³ Amendment filed April 21, 2015 in the '354 Application at page 2.

unpatentable over Rose and White. We agree with Appellants' conclusions as to this rejection of the claims.

The Examiner finds Rose's disclosure of creating a locale source file, which the Examiner equates to the claimed locale object, in combination with White's disclosure of caching and retrieving content, teaches or suggests the subject matter of independent claims 1, 15, and 22. Final Act. 21–23, 27–32. Appellants argue Rose discloses on-demand creation of locale *source files*, not locale *objects* as required by the claims. App. Br. 6, 17. The Examiner responds by finding, because Rose's generator 125 uses script models including "Unicode conversion, case mapping, and string to output locale source file . . . Rose's locale source file is [a] locale object." Ans. 6 (citations omitted). Appellants reply, arguing, according to both Rose and Appellants' Specification, a locale source file is different from and cannot be equated with a locale object as claimed. Reply Br. 6. Rose, according to Appellants, discloses a locale source file must be compiled to create a locale object, only the locale object being accessible by an application program. *Id.* Although not using the "compile" language of Rose, Appellants' Specification uses corresponding language by disclosing "*building* a locale object from a locale source file." Reply Br. 8 (emphasis added). According to Appellants, "Rose is thus very clear that what is being built is a locale source file, not a locale object. The fact that the locale source file in Rose includes similar subsections as the locale object in the claim does not mean the two are the same." App. Br. 7–8. Accordingly, Appellants argue, the Examiner errs in finding Rose teaches building specific subsections or categories for a locale object as required by claims 1 and 8. App. Br. 9.

Appellants' argument is persuasive. In particular, we agree the Examiner errs in equating Rose's locale source file with the claimed locale object because such an interpretation conflicts with both Appellants' Specification and the Rose reference. As argued by Appellants, a locale source file must be compiled or, as disclosed by Appellants, used to build a locale object, with the locale object and not the locale source file, used during execution of an application program. Therefore, because the combination of Rose and White fails to teach or suggest "dynamically building the requested subsection of the requested locale object from the identified at least one locale source file without building all subsections of the requested locale object," we do not sustain the rejection of claim 1 under 35 U.S.C. §103(a) or the rejection of dependent claims 2–7 which stand with claim 1. Furthermore, because the remaining independent claims include similar limitations to those disputed in connection with claim 1, we do not sustain the rejection of claims 15 and 22 under 35 U.S.C. §103(a) for the same reasons, or the rejection dependent claims 16–21 which stand with parent claim 15. Because we are persuaded of error with regard to the issue discussed *supra*, which is dispositive as to the rejection of the indicated claims under 35 U.S.C. §103(a), we do not reach the additional issues raised by Appellants in connection with those claims.

DECISION

We reverse the Examiner's decision to provisionally reject claims 1, 15, and 22 on the ground of non-statutory double patenting over claims 2, 15, and 22 of Bromley '354.

We affirm the Examiner's decision to provisionally reject claims 1, 15, and 22 on the ground of non-statutory double patenting over claims 2, 16, and 22 of Bromley '419.

We reverse the Examiner's decision to reject claims 1–7 and 15–22 under 35 U.S.C. §103(a) over Rose and White.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART